



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

SFUND RECORDS CTR  
**2051571**

August 11, 2004

Zane K. Bolen, Area Manager, Superfund  
ExxonMobil Refining & Supply Co.  
for ExxonMobil Chemical Company  
601 Jefferson Street, Room # 1220  
Houston, TX 77002

Re: Revision to Omega Chemical Superfund Site *De Minimis* Settlement Offer - Settlement Options

Dear Zane K. Bolen:

Thank you for responding to the United States Environmental Protection Agency's (the "U.S. EPA" or the "Agency") Settlement Offer regarding the Omega Chemical Superfund Site and for submitting your Signature Page by the May 7, 2004 deadline. As a result of comments from the *de minimis* potentially responsible parties ("PRPs") for the Omega Chemical Superfund Site, the U.S. EPA is modifying the Settlement Offer for all PRPs, including those who have submitted a Signature Page. A summary of the comments submitted by *de minimis* parties and U.S. EPA's responses to those comments are enclosed in this mailing.

As discussed in the February 6, 2004 Settlement Offer package, the initial Settlement Offer figure of \$12,632 per ton of waste is based on the total estimated cost of site cleanup that includes the base payment and a premium. The premium applied to projected future costs was set at 100%, which is consistent with the U.S. EPA's national guidance for *de minimis* settlements and other *de minimis* settlements across the nation.

EPA is modifying its February 2004 settlement offer to provide *de minimis* parties a cash-out settlement option with re-openers as an alternative to the 100% premium in the February 2004 settlement offer. In the revised settlement, which will be offered to all *de minimis* parties, settling parties will have the opportunity to choose from either a cash-out settlement option that closely mirrors the terms of the initial settlement offer (Option A) or the cash-out settlement option with re-openers if the cleanup costs exceed the current cost estimate (Option B). EPA intends to extend both options to all *de minimis* parties, including those who have agreed to settle. Each of these options is described more fully below, and in the enclosed letter.

Under Option A, a settling party receives a release from the United States for all present and future liability at the Site by paying its share of the estimated costs in EPA's cost estimate, based upon the number of tons of waste it sent to the Site, plus a 100% premium to cover future Site-related and enforcement uncertainties. Pending final approval by the Department of the Interior ("DOI") and the State of California, Option A settling parties will also receive a release from liability for natural resource damages and response costs from the federal Natural Resource Trustees and a release from liability to the Department of Toxic Substances Control ("DTSC") for response costs incurred by that agency. The addition of this release from liability for natural resource damages and DTSC's costs is the only difference between this Option A and the initial EPA settlement offer.

Alternatively, under the newly created Option B, settling parties would pay less money up front but receive more limited liability releases from the United States with respect to the Site. Under Option B, a settling party pays a 50% premium, compared to the 100% premium under Option A. EPA may

require Option B settling parties to pay additional money in the future for Site costs in excess of the current cost estimate. Such additional payment(s) may be required at two points in time in the future. One, if the cost estimate used in the Record of Decision ("ROD") to select the final remedy at the Site is greater than the existing cost estimate used for this *de minimis* settlement, EPA may seek additional payment from settling parties who chose Option B. Two, if Site costs at the time the final remedy is completed, but no later than January 1, 2013, exceed the existing cost estimate used for this *de minimis* settlement, EPA may also seek additional payment.

Enclosed please find a revised cost settlement form showing the Option A and Option B settlement figures. The dollar amounts in both the Option A and Option B boxes reflect the 5% discount for returning your initial Signature Page by the May 7, 2004 deadline.

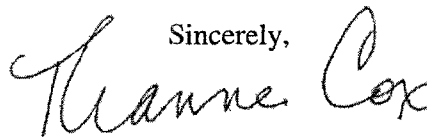
Also enclosed is a revised Signature Page, where you must indicate your choice of the settlement options. If you choose Option A, the Signature Page you previously submitted to U.S. EPA will remain in effect with the 5% discount, and you do not need to submit a new Signature Page. If you choose Option B, you must complete, sign and return the revised Signature Page to EPA, postmarked no later than September 10, 2004. **If EPA does not receive the revised Signature Page within this time frame, EPA will assume that you chose Option A and your settlement will be based upon Option A terms.**

The U.S. EPA is still in the process of reviewing the PRP challenges received with executed Signature Pages. If your challenge has not yet been processed, you should still provide the revised Signature Page indicating your choice of settlement options. When you receive the results of your challenge, you will have 14 days within which to withdraw your initial or revised Signature Page.

Please note that the Omega PRP Organized Group ("OPOG") filed a lawsuit on February 27, 2004, in the United States Central District of California Western Division against PRPs at the Omega Site for reimbursement of cleanup costs. Defendants to this lawsuit will be served within the next three months. As a *de minimis* party settling its potential liability at the Site with U.S. EPA, you will not be subject to this lawsuit.

If you have any questions, please contact the toll-free Omega information line at 1-888-635-1524.

Sincerely,



Thanne Cox  
Assistant Regional Counsel

Enclosures: Administrative Order on Consent Revised Signature Page  
Settlement Cost Summary  
Revised Omega *De Minimis* Settlement Offer Letter

cc: OPOG Steering Committee  
OSVOG  
Linda Ketellapper, EPA

## Settlement Cost Summary

**ExxonMobil Chemical Company  
for EXXON CHEMICAL CO.**

The payment required to join this settlement will depend upon the settlement option chosen. Please see the enclosed letters\* for explanations of the settlement options and payment instructions. **Do not enclose a check with your signature page; please wait until you receive a letter with payment instructions.**

### **OPTION A**

If ExxonMobil Chemical Company selects the Option A settlement option, its payment, including the **five percent (5%) discount**, will be:

$$6.9421 \text{ tons} \times \$12,632 \text{ per ton} - 5\% =$$

**\$83,307**

### **OPTION B**

If ExxonMobil Chemical Company selects the Option B settlement option, its payment, including the **five percent (5%) discount**, will be:

$$6.9421 \text{ tons} \times \$9,678 \text{ per ton} - 5\% =$$

**\$63,825**

\* Options A and B are explained in detail in the cover letter to this document entitled "Revision to Omega Chemical Superfund Site *De Minimis* Settlement Offer - Settlement Options" dated August 11, 2004, and in the enclosed U.S. EPA letter entitled "Revised Omega *De Minimis* Settlement Offer" dated August 10, 2004.

**De Minimis Revised Offer Letter**

**Omega Chemical Superfund Site  
Settlement Cost Summary**

Omega De Minimis Administrative Order on Consent Revised Signature Page

**ExxonMobil Chemical Company for EXXON CHEMICAL CO.**

\_\_\_\_\_, by the duly  
[Respondent]

authorized representative named, titled and signed below, hereby consents to this Administrative Order on Consent and agrees to be bound by the terms and conditions thereof, and selects one of the following settlement options, as provided in the Administrative Order on Consent:

**YOU MUST SELECT ONE OF THE FOLLOWING:**

- ☐ **OPTION A** (\$12,632 per ton)\*  
☐ **OPTION B** (\$9,678 per ton)\*

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATED: \_\_\_\_\_

Mailing name and address for this Respondent, or for his, her or its agent for service of process (please print):

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATED: \_\_\_\_\_

\* Options A and B are explained in detail in the cover letter to this document entitled "Revision to Omega Chemical Superfund Site *De Minimis* Settlement Offer - Settlement Options" dated August 11, 2004, and in the enclosed U.S. EPA letter entitled "Revised Omega *De Minimis* Settlement Offer" dated August 10, 2004.

**De Minimis Revised Offer Letter**

**Omega Chemical Superfund Site  
Settlement Cost Summary**



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

8/16/2004

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **640808413633**. Our records reflect the following information.

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**Delivery Information:**

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**Signed For By:** R.WHITTEN

A black and white photograph of a handwritten signature, "Robert Whitten", in dark ink on a light-colored background.

**Delivery Location:** 601 JEFFERSON8

**Delivery Date:** August 13, 2004

**Delivery Time:** 0858

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**Shipping Information:**

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**Tracking No:** 640808413633

**Ship Date:** August 12, 2004

**Recipient:**

MR. ZANE K. BOLEN  
EXXONMOBIL REFINING & SUPPLY C  
601 JEFFERSON STREET, ROOM # 1  
HOUSTON, TX 77002  
US

**Shipper:**

OMEGA  
SAIC  
1404 FRANKLIN ST.  
OAKLAND, CA 94612  
US

**Shipment Reference Information:**

06-5026-01-0506-000

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service  
1-800-Go-FedEx®  
Reference No.: R2004081600143635952